![CAHCF/CCAL logo — Connecticut Association of Health Care Facilities, Connecticut Center for Assisted Living]

May 19, 2022

The Honorable Deidre S. Gifford, MD, MPH
Commissioner
Department of Social Services
55 Farmington Avenue
Hartford, CT 06106

Dear Commissioner Gifford,

I am writing to follow up on your recent communication with CAHCF/CCAL Board Chair, Larry Santilli, on the issue of aligning Connecticut nursing home rate setting strategies with the state's LTSS rightsizing and rebalancing goals, the extraordinary increased labor related costs now being experienced, and the urgency of addressing these issues at this critically important time. CAHCF/CCAL believes that Connecticut nursing homes are at an important transitionary period, in part due to the pandemic, unprecedented wage increases and staffing-related occupancy declines. Connecticut can and should immediately establish and implement a licensed bed reduction strategy that will achieve the state's longstanding licensed bed reduction goals, significantly reduce scarce Medicaid LTSS expenditures with these nursing home savings, further the utilization of home and community based care options due to the significant decrease in supply of nursing homes beds, and position a healthier "rightsized" nursing home sector to provide high quality care into the future. CAHCF/CCAL warns that failing to establish and set in motion accelerating licensed beds reductions now will be a missed opportunity in the overall state LTSS rightsizing and rebalancing objectives.

CAHCF/CCAL would welcome the opportunity to work with your office in estimating the significant Medicaid savings that could be achieve in a multi-faceted strategy to reduce nursing home licensed bed capacity by as many as three-thousand (3,000) or more beds, including the outright closing of currently unoccupied wings and the potential consolidation and closure of low occupancy nursing homes.

CAHCF/CCAL recommends a multi-component strategy that must be announced over the next several weeks:

1. **Align Bed Reduction Goals with Rate Setting Policy in the form of an 85% occupancy imputed date penalty effective in the July 1, 2023 nursing home rates**.

A rate-setting policy that aligns with beds reduction goals must have strong incentives and disincentives to bring about the desired outcomes. Our state's current rate setting policy will not accomplish the stated goals for two reasons. First, many nursing homes with excess bed capacity are set to have their SFY 23 rates significantly reduced whether or not they delicense beds. Using the 85% occupancy threshold consistent with DSS' April 1 Rightsizing Plan Solicitation, CAHCF/CCAL believes nursing homes will delicense beds in significant numbers if doing so prevents a rate reduction in SFY 2023, and that they will do so at an accelerated pace over the next several months if the state announces a policy where bed reductions reflected in the October 2022 cost reports would be the basis for avoiding SFY 2023 rate reductions. Another way of expressing this point is that nursing homes that do not reduce their excess beds under these accelerated timeframes will see significant rate reductions due to imputed day penalties. If this policy were announced no later than June 2022, CAHCF/CCAL estimates an unprecedented number of beds reductions in the coming months, including the closure of full wings and even the closing of entire low occupancy facilities owned by multi-facility operators. Under this approach, nursing homes would suffer under the imputed day penalty in their July 1, 2023 rates commensurate with occupancy below the 85% threshold. The only opportunity to avoid the imputed day penalty would be to reduce licensed bed capacity accordingly.

Second, implementing a related policy that causes a marginal upward adjustment of the rates allowed under current rate setting rules when a nursing home reduced its bed capacity prior to October 1, 2022 will provide another significant incentive for bed reductions in combination with a policy that will reduce rates for failing to act to reduce excess bed capacity as stated above. Together, announcement of these policy no later than June 2022 will provide the incentives and disincentives that will bring about the largest reduction in licensed bed capacity ever experienced in Connecticut's program.

2. **Rebasing of Medicaid Nursing Homes Rates based on SFY 2022 Costs Reports.**

Interconnect to implementation of an imputed day penalty discussed above, the July 1, 2023 rates must be based on more accurate post pandemic costs. Continuing to base future rates on the 2019 costs is no longer feasible. Moreover, using 2020 or 2021 cost experiences would not reflect staffing rate increases and inflation currently impact the industry. Post pandemic related inflated costs are more accurately and reasonably normalized in the 2022 costs. In short, if there are going to be harsh consequences with a July 1, 2023 imputed day penalty to incentivize bed reductions,

the underlying rate calculation must accurately reflect the 2022 costs, which is why CAHCF/CCAL is recommending rebasing to the 2022 cost report expenses.

3. **Current SFY 2023 rates (July 1, 2022 to June 30, 2023) musts address the financial instability caused by a 21% increase in labor-related costs now being experienced**

   The state can and should immediately significantly increase rates for labor-related cost increases that are not currently reflected in the SFY 2023 rates with a time-limited 12% rate increase that will expired on June 30, 2023. CAHCF/CCAL has previously provided the analysis that support this rate request. From July 1, 2023, forward, these costs would be included in the rate provided the base year is 2022 as noted in item no. 2 above. Of course, the 10% temporary Medicaid and ARP funded rate increase provided to support nursing homes for lower occupancy during the forecasted pandemic recovery period would expire on June 30, 2023.

4. **Connecticut will experience significant Medicaid savings in either a licensed bed reduction result or an imputed date penalty, or both, in the Medicaid rates**

   It is very important to consider that the state is assured considerable savings in the CAHCF/CCAL recommendations in both the short term and more importantly in achieving its decades long pursuit of LTSS rightsizing and rebalancing goals. To be sure, there is no scenario or down-side risk for the state in the approach recommended by CAHCF/CCAL. Specifically, in the imputed day scenario, Medicaid savings will be achieved in lower Medicaid rate for facilities that fail to reduce licensed beds below 85% capacity. Also, under this scenario where nursing homes do reduce licensed beds, the state will save considerable Medicaid dollars in a rightsized/rebalance LTSS system where more and more recipients are served in less costly home and community based environments.

5. **The Statutory Language and Commitment from State Officials to Connecticut Nursing Home Operators:**

   For the fiscal year ending June 30, 2024, the Commissioner of Social Services shall establish Medicaid rates paid to nursing home facilities based on the cost year ending on September 30, 2022 in accordance with the provisions of 17b-340d of the general statutes. Such rates shall be adjusted to reflect an updated licensed bed capacity for any nursing home facility that reduces licensed beds prior to October 1, 2022. An eighty-five percent minimum occupancy percentage shall be utilized for the purpose of establishing the rates for the fiscal year ending June 30, 2024.

Conclusion: A strategy of aligning nursing home rate setting polices with LTSS rightsizing objectives---implementation time-sensitive in the next few weeks

CAHCF/CCAL's recommendations are consistent with the policy objectives set forth in the Commissioner Solicitation for April 1, 2022 Quality and Efficiency Plans. Moreover, with no down-side risk, implementation of this approach will provide a significant boost to the state's LTSS rightsizing goals within a few short months, achieving the LTSS rightsizing/rebalancing goals that has been the objective of the state for decades. Finally, establishing and communicating implementation of the approach recommended in this letter is essential within the next several weeks. Today, many of our Connecticut nursing homes are moving steadily back to pre-pandemic occupancy level with state-wide occupancy now at approximately 80%. Further, many nursing home operators reasonably believe that based on the growing aging demographic, the demand for nursing home beds will increase over the next years. These views, while not unreasonable, are barriers to addressing bed reduction objectives. This is why a strategy of aligning nursing home rate setting polices with LTSS rightsizing objectives is essential and time-sensitive to the critical juncture of transition the sector is in at this stage in the pandemic's recovery. In short, CAHCF/CCAL is concerned that the window of opportunity to achieve beds reductions with an appropriate rate setting strategy will not be achievable when nursing homes are at 85% occupancy levels or above.

The leadership of CAHCF/CCAL, including the leadership of LeadingAge CT, is requesting the opportunity to meet with you at the earliest possible time to discuss the recommendations included in this letter.

Sincerely,

Matt Barrett

Mathew V. Barrett, President/CEO
CAHCF/CCAL

Cc: Lawrence Santilli, Chair, CAHCF/CCAL Board of Directors
        Mag Morelli, President, LeadingAge CT